

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

- - -

UNITED STATES OF AMERICA,	.	Case No. 1:18-cr-043
	.	
Plaintiff,	.	<b><i>In-Person Status Conference</i></b>
	.	
- v -	.	
	.	Tuesday, June 18, 2019
YANJUN XU,	.	1:03 PM
	.	
Defendant.	.	Cincinnati, Ohio
	.	

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE TIMOTHY S. BLACK, JUDGE

APPEARANCES:

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P R O C E E D I N G S

(In chambers at 1:03 PM.)

THE COURT: We'll go on the record.

We're here in chambers on the record on the criminal docket in the matter of *United States versus Xu*. We're set for a status conference.

Who appear as the attorneys for the United States?

MR. MANGAN: Good afternoon, Your Honor. Tim Mangan on behalf of the United States.

I want to introduce Thea Kendler, who is from the Department of Justice, is here.

THE COURT: Good afternoon.

MS. KENDLER: Good afternoon.

MR. MANGAN: And Ms. Glatfelter as well.

THE COURT: Good afternoon.

And on behalf of the defendant?

MS. CORS: Good afternoon, Your Honor. Jeanne Cors and Florian Miedel on behalf of Mr. Xu. And I'd like to introduce Courtney Lynch, who is an associate at our firm working on this case as well.

THE COURT: Good afternoon.

MS. LYNCH: Good afternoon.

THE COURT: Welcome to the two new faces.

And it's, of course, a high honor and great privilege to have you here, sir, all the way from New York.

1 MR. MIEDEL: I knew that was coming.

2 THE COURT: We're here for a status report, and that's  
3 what I anticipate, relatively informal. I will note that we  
4 e-mailed you back in mid-April and talked about what we were  
5 trying to get accomplished regarding computer access, letters,  
6 books, in-person meetings, and I'm hoping that progress has  
7 been made. That is my understanding.

8 But I'd like to hear from each side in turn as to where we  
9 are, what's been done, what presents, what needs to be done,  
10 how can the Court be responsive.

11 The Court typically hears from the United States first.

12 MR. MANGAN: Well, to kick it off, Your Honor, with  
13 respect to discovery, the lion's share of it we had already  
14 produced in the last couple of productions, which led to the  
15 discussion about the computers.

16 We have not heard anything more in terms of concern,  
17 whether it be from BOP or the defense, so hopefully that's what  
18 the report will be from the defense. We have not heard of any  
19 other issues. So it's been fairly quiet since our last status  
20 conference.

21 We are continuing to work for whatever else we need to  
22 produce. There are some things where he writes letters, for  
23 example, in jail, and we're now getting the translations back  
24 that we'll produce back to them. And we've got some other  
25 e-mail accounts that we'll be producing to them. So we're

1 getting another round of things to produce to them, just to  
2 stay up on things, but otherwise it's been fairly quiet.

3 THE COURT: So where are you on completing production  
4 of discovery, and what are the next several steps?

5 MR. MANGAN: I would say, as to the core pieces, you  
6 know, that we've locked in on, this next production would be,  
7 you know, one of the last big pieces, which is the e-mail  
8 accounts related to the defendant.

9 As far as finalizing discovery, we wouldn't be able to say  
10 we're totally final until we get through the CIPA portion of  
11 it, because obviously however that shakes out and whatever the  
12 Court would order from that would impact -- you know, may  
13 impact what our final discovery is. But we certainly -- we're  
14 trying to -- I think we're on the tail end of things, without  
15 saying that we are at the end.

16 THE COURT: Fair enough. I'm just trying to get a  
17 sense for where we are and where we're going. So help me a  
18 little bit more on where we're going.

19 MR. MANGAN: I was going to say, there's an ongoing  
20 piece to it from the standpoint of we've turned over the cloud  
21 accounts and we've turned over the translations as we get  
22 finalized pieces of translations. As you know, we've said if  
23 we're going to use something, we will have it translated and we  
24 will produce that.

25 There are still things in process from a translation

1 standpoint, and part of the -- I think that is moving along  
2 pretty well, but they need to have those finalized. There has  
3 to be sort of a second set of eyes that signs off on the  
4 translations before we get them. So I know there is a portion  
5 of the cloud accounts, for example, that they are still  
6 finalizing the translations. And when we get those, we would  
7 add those in to the discovery in addition to what they've  
8 already received.

9 It's hard to say, you know, from a time standpoint how far  
10 away we are. Like I said, it does depend in part on the CIPA  
11 aspect of it.

12 THE COURT: Yeah. I mean, that's my direct question,  
13 is, you know, where are we on timing.

14 MR. MANGAN: I think if we have some -- I think  
15 generally the e-mail portion of it that I was talking about,  
16 this next production I think we would have out in the next --  
17 you know, hopefully by the end of June. I'm just waiting on  
18 some of the translations related to the e-mails.

19 With respect to the additional translations, I'm told  
20 they're close. It's hard to promise when I'm not in control of  
21 the translators, but we're still talking within a matter of  
22 months that we would get that out and get that, hopefully,  
23 finalized. I just would ask for a little bit of leeway that,  
24 you know, if they find something more in the Mandarin  
25 translated, there may be things coming out in dribs and drabs

1 at the end, but I feel like the lion's share of it we are  
2 getting through and we are close to the end.

3 THE COURT: Very well. I'm not trying to trap you on  
4 a deadline for production of every piece of paper.

5 MR. MANGAN: It's a little different when we're  
6 dealing with -- you know, there is a known -- there are certain  
7 accounts that we have turned over to them, but they're in  
8 Mandarin. And so, you know, as they go through and translate  
9 things, there's always the chance that they will find something  
10 more. We think we've uncovered the key pieces that we need to  
11 turn over and get translated, but we don't know for sure.  
12 Obviously, there's going to be some ongoing work.

13 THE COURT: I'm considering retiring in 2022. Do you  
14 think this case will be tried before then?

15 MR. MANGAN: Fortunately or unfortunately, I think it  
16 will.

17 THE COURT: Very well.

18 MR. MANGAN: I'm not sure if that changes your plans.

19 (Laughter.)

20 THE COURT: Fair enough. That was largely a joke.

21 MR. MANGAN: The other -- if I could just highlight  
22 sort of as a sneak preview, the other piece of it is, as you  
23 know, looking back at the Indictment, it alleges, you know,  
24 course of conduct over a number of years in terms of his  
25 activities with respect to not just the aviation company that's

1 here in Ohio but also other activities that he may have engaged  
2 in with other aviation companies. That may tie in to their  
3 request for the 404(b) notice, or not.

4 MS. CORS: I think it would.

5 MR. MANGAN: And we will respond to that.

6 But part of what we also need to work on and we are working  
7 on is determining what other factual scenarios within his  
8 writings, within his activity, that we plan to present at trial  
9 and making sure we have the discovery that goes with each of  
10 those incidents. So in a way there's almost like cases within  
11 cases, and we're trying to make sure we have all of that. So  
12 we are working on that as we track those down, but that's an  
13 ongoing process as well.

14 THE COURT: I've taken a deep breath. When this goes  
15 to trial, I'm not holding you to it, but how long --

16 MR. MANGAN: How long?

17 THE COURT: -- do you think it would take for the  
18 government to put on its case-in-chief?

19 MR. MANGAN: I would measure it in weeks. Less than a  
20 month.

21 THE COURT: Very well.

22 MR. MANGAN: I should probably turn to my right hand  
23 in case --

24 Feel free to throw a stapler at me if I'm wrong, or hit me.

25 THE COURT: I wasn't trapping you. I was just trying

1 to get a sense for what's on the plate.

2 I sort of have a sense for the government's status report.  
3 Can I pause at this point and ask the defense for their  
4 perspective on status, Mr. Mangan?

5 MR. MANGAN: Yes, Your Honor.

6 MS. CORS: Your Honor, we're happy to report that on  
7 many of these issues we're in full agreement with the  
8 government. Thanks, I think, partly to your reach-out and Ms.  
9 Frankian's after the last status conference, we have made a lot  
10 of progress on discovery.

11 Mr. Xu now has access to all of the discovery that has been  
12 provided. That access is being provided on a computer that's  
13 being wheeled into his cell. We understand that he has been  
14 given significant access to that computer during the day and is  
15 well on his way to being able to review all of that.

16 In addition, we have worked closely with Dan Clore and his  
17 staff, they've been very helpful, and the government in terms  
18 of both the access to the computer materials but also access to  
19 our client himself. We have been able to work cooperatively  
20 with Dan Clore to schedule meetings to go through that  
21 discovery.

22 So we're in good shape on both those issues. We don't see  
23 any need for the Court to be involved at the moment in either  
24 of those.

25 THE COURT: That's a magnificent report, and that's a

1 credit to everybody around the table, including my career law  
2 clerk.

3 Go ahead.

4 MS. CORS: With respect to letters and books, we are  
5 still working through some issues with respect to those, but,  
6 again, Dan Clore and his staff have been working with us.  
7 Letters were getting to our client routinely up until about  
8 three weeks ago, and then there was a three-week delay that we  
9 had some concerns about. But we were informed that that was  
10 due to the translator being on vacation, so I believe that  
11 issue has been resolved and is not going to be an issue going  
12 forward.

13 On books, I think we finally got a breakthrough yesterday.  
14 Bob McBride is there with our own translator, and they met with  
15 Dan Clore. Right now he's been provided two books in Mandarin,  
16 one which I understand is in a dialect that, unless you're very  
17 old, you would not be able to read. That's not anything on the  
18 FCI Milan. They didn't know.

19 But yesterday there was a meeting. Mr. Xu has provided a  
20 couple names of texts in Mandarin that he would like to read,  
21 and our translator went home and, using her own Mandarin  
22 keyboard, was able to find links to retail establishments I  
23 guess around the country that might sell those books. Those  
24 have been sent to Dan Clore. So, again, on that issue I think  
25 we have made substantial progress, and hopefully over the next

1 couple of weeks he will have more to read.

2 THE COURT: That's good news as well. What do you  
3 consider really, really old?

4 MS. CORS: According to our client, this was something  
5 that, you know -- a dialect that maybe was a couple hundred  
6 years old.

7 THE COURT: Very well.

8 MS. CORS: So we're in good shape --

9 THE COURT: Okay.

10 MS. CORS: -- with respect to our review of the  
11 discovery and, more importantly, our client's ability to review  
12 the discovery.

13 THE COURT: Okay. So where are we? What lies ahead?

14 MS. CORS: We are considering a number of motions.  
15 We're evaluating those now. I think it would be fair to say  
16 we're far along in that process. We would expect, you know,  
17 within the next month to two months to have any motions we  
18 would intend to file finalized other than maybe some  
19 evidentiary motions that, you know, we would need to evaluate  
20 closer to trial.

21 But I think we're in good shape. You know, certainly our  
22 client is very interested in setting a trial date. His  
23 interest in that has not changed. And, you know, certainly  
24 from our perspective, by early next year we would expect we  
25 could be in a position to be ready to go to trial.

1       We were talking with Mr. Mangan and Ms. Glatfelter about  
2       that. It seems like I think everyone is on board at the moment  
3       that early next year could be a possible target date, if that  
4       would work with the Court.

5               THE COURT: Only one other person to get on board with  
6       that plan.

7               MS. CORS: Yes, only one other person, maybe the most  
8       important.

9               THE COURT: Hardly. But we talked about pretrial  
10       motions and a pretrial motion deadline. And I'm not talking  
11       about motions *in limine*.

12              MS. CORS: Uh-huh.

13              THE COURT: I'm talking about substantive pretrial  
14       motions. Would you like to set a pretrial motions deadline so  
15       that we can all be focused on anticipating the day when they  
16       roll in?

17              MR. MIEDEL: Well, Your Honor, we were thinking if the  
18       Court were available and we could try this case in early 2020,  
19       say February -- I hear the weather is great at the time -- then  
20       maybe we would work backward to set a motions schedule for the  
21       non-evidentiary motions, for example, in early October or  
22       something along those lines. But again, obviously, it depends  
23       on the Court's schedule.

24              THE COURT: Well, let's talk around the table about  
25       when you really think you're going to be ready to try this and

1 how long you think it's going to take, and we'll start to  
2 prepare our docket for it. I mean, we will try this case when  
3 you're ready. I know one week in February is a challenge for  
4 me. I thought that I'd heard March. I've looked at -- well,  
5 February, March, April? We don't necessarily have to commit  
6 today.

7 But what's the government's thinking on the month or less  
8 that you think it will take for you to put on your case-in-  
9 chief? What months or month do you think is realistic?

10 MR. MANGAN: I think something in 2020 is realistic.  
11 I mean in the early part of it. What they've suggested is not  
12 out of line with how we were projecting as well.

13 Obviously, it depends on where we could fit it in with the  
14 Court's calendar.

15 THE COURT: Right.

16 MR. MANGAN: Working back from that, you know, we  
17 would like to have a substantive motion deadline somewhat  
18 earlier so that we can, you know, work on that, you know,  
19 during 2019 so we can get those resolved and to the extent out  
20 of the way without, you know, having that too close to the  
21 trial date. The same thing, I know, with respect to experts.  
22 I know they have given us a request for experts.

23 What we would suggest is at some point -- you know, we  
24 could talk about what month would be appropriate -- have an  
25 expert disclosure deadline and then possibly another one for

1 rebuttal, but have that imposed for both parties so that we  
2 can, you know, move towards that at the same time, so that  
3 we're working on discovery, we're working on motions, we're  
4 working on experts all simultaneously.

5 I think if we can work on those things throughout the rest  
6 of this year, we would be ready to proceed with the trial, you  
7 know, in whatever we're talking about, February, March of next  
8 year.

9 THE COURT: Ms. Frankian, do you want to weigh in on  
10 whether or not we should establish a schedule today, or any  
11 reactions to what these aggressive lawyers are proposing?

12 THE LAW CLERK: We could establish a schedule today.  
13 If we're looking at February 2020 for a trial date, I would  
14 think maybe the end of August for a motion deadline, just  
15 because by the time it's briefed and if we need a hearing,  
16 then, you know, we wouldn't want to push it too close to the  
17 trial date.

18 THE COURT: That's a lot of --

19 Do you all want to consider outside the Court's presence  
20 coming up with a calendar, recognizing that the Court will make  
21 itself available for trial when you're ready? I know I have  
22 five days in February that we might have to recess for. On the  
23 other hand, we could start in late February and go until the  
24 end of my career.

25 (Laughter.)

1           THE COURT: Do you want to do this now seat of the  
2 pants? Do you want to talk about it? I think we really ought  
3 to have a discovery deadline, understanding that you have the  
4 right and obligation to supplement. And then I think we need a  
5 pretrial motion filing deadline that gives you adequate time to  
6 respond to it, because it's going to be substantive, one would  
7 assume, and gives us time to have time to work on it. I think  
8 we need to have an expert witness disclosure date, and I think  
9 we ought to pick a trial date.

10          Do you want to do that right this minute, or do you want to  
11 confer among yourselves and come back with a proposal and we'll  
12 sign off on it?

13          MR. MANGAN: We'd be okay with conferring with them,  
14 if that's more convenient for the Court, and try to propose  
15 some dates.

16          MS. CORS: That's fine.

17          MR. MANGAN: How does that sound?

18          MS. CORS: That's fine with us.

19          MR. MANGAN: Obviously, we could do everything except  
20 the trial date piece of it.

21          THE COURT: Well, you can make a suggestion. And I'm  
22 telling you that when you're ready, we're going to make sure  
23 that you go to trial.

24          MS. CORS: Okay.

25          THE COURT: Did you have more? What do you think of

1 this approach, letting them come up with it?

2 THE LAW CLERK: That's fine. I was going to say, we  
3 could step out and just go print out a copy of our calendar and  
4 maybe -- I don't know if that's adequate time if you want to  
5 discuss it for a few minutes.

6 THE COURT: I think I'd like to give you guys time to  
7 come up with a realistic calendar rather than for me to guess  
8 at it based on your vague statements about when you're going to  
9 be ready with what.

10 So when can you get me a proposed calendar order that lays  
11 out those dates, and are there other dates we ought to  
12 identify?

13 MR. MANGAN: I think you've hit on all the main  
14 deadlines that we had in mind.

15 THE COURT: Okay.

16 MR. MANGAN: Were you thinking a week?

17 MS. CORS: I think a week would be fine with us.

18 THE COURT: That's great.

19 MR. MANGAN: And if it's okay with the Court --  
20 If you've got some time.

21 -- we could go down to our office on the seventh floor  
22 right afterwards and talk a little bit. So I think a week  
23 would be --

24 THE COURT: I think that would be a good thing.

25 MR. MIEDEL: Judge, the --

1 THE COURT: Yes?

2 MR. MIEDEL: The week that you're unavailable in  
3 February, can you share what week that is so we just have an  
4 idea about -- it probably makes sense to schedule the trial  
5 after that, but --

6 THE COURT: Yeah. It's a Saturday to a Saturday. I  
7 think it's the 15th to the 22nd.

8 THE LAW CLERK: Is it on our calendar?

9 THE COURT: Yes.

10 THE LAW CLERK: Would you like me to go look?

11 THE COURT: Would you be willing to?

12 THE LAW CLERK: Sure.

13 (Ms. Frankian departs the conference room.)

14 THE COURT: That's our best guess. We're going to go  
15 pin that down. And given all of the pieces, I would hope we  
16 can avoid that week.

17 Is there more we ought to discuss today? This has been a  
18 very collegial, pleasant status conference.

19 MR. MANGAN: If I could just point out just a couple  
20 things, one of which is a question. One would be, whatever we  
21 work out in terms of our discovery deadline -- and I appreciate  
22 you saying that there will be some leeway there -- it would be  
23 helpful -- it's easier for us to hit that deadline if we feel  
24 that at least that preliminary CIPA motion will be resolved  
25 before then. So whatever we put in that order, obviously,

1 we're guessing at when the Court might issue an order on that,  
2 but I just wanted you to have that in mind, that that does  
3 interact with how we do the discovery.

4 The second piece of it --

5 THE COURT: That was really delicately done.  
6 Congratulations.

7 MR. MANGAN: Walking on coals here.

8 (Laughter.)

9 MR. MANGAN: The second part of it is, I know sometime  
10 in the past -- and I think Mr. Kohnen was involved -- there was  
11 a trial that you had involving a number of witnesses where you  
12 needed translations.

13 THE COURT: Yes. I remember it.

14 MR. MANGAN: I don't recall -- I had a feeling it  
15 would come back to you. The question I had was, you know,  
16 we're producing our translations in this case. We don't know  
17 to the extent the defense disagrees with any of those  
18 translations, and I don't know, in your prior experience, have  
19 you ever had a deadline for counter-- you know, disclosure of  
20 counter-translations, if you will?

21 THE COURT: Yes.

22 MR. MANGAN: Okay. That may be something that would  
23 be helpful in this case. And, frankly, you and Mr. Kohnen  
24 probably have more experience in it than we do.

25 THE COURT: That's going to require a bunch of time.

1 (Ms. Frankian returns to the conference room.)

2 MR. MANGAN: The good thing I would --

3 THE COURT: What is that?

4 THE LAW CLERK: This first one --

5 THE COURT: I know what that one is.

6 THE LAW CLERK: -- you just have "TSB out" on various  
7 days between those dates.

8 THE COURT: Okay. It looks like the February week  
9 that I'm trying to avoid is February 15 to 21, and we'll deal  
10 with everything else.

11 I should never have let you leave.

12 THE LAW CLERK: What happened?

13 (Laughter.)

14 MR. MANGAN: Clearly I strayed into the wrong hallway.

15 MS. CORS: Translations.

16 THE LAW CLERK: Oh.

17 MR. MANGAN: Counter-translations.

18 THE COURT: But before translations, he said that all  
19 this calendaring is going to be affected, in part, by when the  
20 Court issues an order on the CIPA motion.

21 Right?

22 MR. MANGAN: Yes, Your Honor.

23 THE COURT: And you also said, you know, we've got  
24 this translation issue, and apparently you all have had  
25 experience with this, and that's going to need to be built into

1 the timeline as well. And my reaction is that takes a lot of  
2 time and there needs to be a lot of deadlines for, you know,  
3 objections to translations.

4 It suggests to me it's going to require a bunch of time. I  
5 don't know whether you're going to be ready in February or  
6 March, but I'm going to rely on you.

7 If we turn ourselves upside down and give you the trial  
8 date over numerous weeks that you've asked for, you need to be  
9 ready to go. So, I mean, be realistic about this.

10 Any thoughts in any of that regard? I'm right that's going  
11 to -- all those affect the calendar, and they ought to go spend  
12 some time today and talk it through and see what they suggest.

13 Why don't you talk through the translation issue. Do you  
14 recall off the top of your head? I mean, we had dead-- we can  
15 find the docket.

16 THE LAW CLERK: Right.

17 THE COURT: We had deadlines for this, that and the  
18 other thing, and it spreads out over time.

19 THE LAW CLERK: We did. There were dates that the  
20 parties selected for exchanging their proposed translations and  
21 their objections. We weren't involved in that aspect of it.  
22 But when it got down to the end, there were a number of words  
23 that they just couldn't reach an agreement on.

24 MR. MANGAN: Okay.

25 THE COURT: So I translated them.

1 (Laughter.)

2 THE LAW CLERK: It was very effective.

3 So we worked through those. We made a list basically,  
4 included the Japanese character. I mean, the other case was  
5 Japanese translations. So we included the Japanese character,  
6 the government's proposed translation, the defense proposed  
7 translation. We sent them to our interpreters, and they came  
8 back, and either -- if they both agreed on one, we selected  
9 that one. If they were divided, we just set that aside. And  
10 if they couldn't agree -- sometimes they just came up with a  
11 completely different one.

12 And basically we worked through. We whittled it down until  
13 there were four words that we couldn't come up with an  
14 agreement on, so we made a form and gave it to the jurors and  
15 said: Look, in context, this word when it comes up either  
16 means this or that. You guys need to judge, based on the  
17 witness' testimony, which thing you think they meant when they  
18 said this.

19 THE COURT: I'd forgotten that we had -- the Court had  
20 interpreters too.

21 MR. MANGAN: Okay.

22 THE COURT: So give us --

23 THE LAW CLERK: Which the parties selected. Sorry to  
24 interrupt.

25 THE COURT: And presumably paid for.

1 THE LAW CLERK: Yes.

2 THE COURT: So factor that into your calendaring.

3 MR. MANGAN: Okay. That's definitely something to  
4 think about. Obviously, we know what our translators did and  
5 we provided that. We just don't know the extent of the  
6 disagreement, if any, on these.

7 I take it these were various written documents that were  
8 being translated?

9 THE COURT: Correct.

10 THE LAW CLERK: Right.

11 MR. MANGAN: E-mails and so forth?

12 THE COURT: Right. So you ought to have a meet-and-  
13 confer date by which you will have figured out translation  
14 issues at the least.

15 MR. MANGAN: Okay.

16 THE COURT: And then --

17 MR. MANGAN: Okay.

18 THE COURT: It sounds like it's most important for  
19 trial exhibits.

20 MR. MANGAN: Right.

21 THE COURT: You just don't want to leave it to do it  
22 in January.

23 MR. MANGAN: Right.

24 THE COURT: Very well.

25 MR. MANGAN: Okay.

1           THE LAW CLERK: I can -- I sent the parties an e-mail  
2 in the prior case and just laid out how we wanted the binders.  
3 Essentially they were color coded so it made it easier for us  
4 and for the interpreters to go through and see the original,  
5 the defense, the government.

6           So I can go through, find those e-mails, and forward them  
7 so you can see the instructions we had given on the prior.  
8 That may help just as you're going through.

9           THE COURT: But perhaps we're not going to have the  
10 issues we had with --

11          What was it, Mandarin?

12          THE LAW CLERK: The Japanese?

13          THE COURT: Japanese. -- the Japanese language that  
14 you all are going to have here. I mean, are you anticipating  
15 disputes over accuracy of translations?

16          MR. MANGAN: I just don't know, Your Honor. Hopefully  
17 this isn't an issue, but I wanted to just ask.

18          THE COURT: No, I'm glad you raised it.

19          But before we show them our color-coded charts, maybe they  
20 won't need them.

21          THE LAW CLERK: I think they will.

22          MS. CORS: Your Honor, I don't know that we're in a  
23 position to answer that right now. One of the issues I know  
24 that Bob McBride has been talking to Mr. Mangan about is  
25 obtaining the underlying materials in Mandarin that are the

1 basis of the translations that they have given us. So I think  
2 we've got to work through that issue, and then, you know, we're  
3 going to have our own folks look at that.

4 MR. MANGAN: I think you have that for all of the  
5 cloud, because that was produced on the disk. So the CDs have  
6 it in the original Mandarin, and then we've got separate  
7 translations of excerpts of it.

8 MS. CORS: We'll have to talk about it. I don't know  
9 that we can easily tie those two together with what we've got  
10 in Mandarin and what --

11 MR. MANGAN: And then the other part of it was there  
12 were disks related to the devices that had been seized, and  
13 then those had been analyzed. Reports had been created. When  
14 you look at those reports, it's primarily in Mandarin, at least  
15 in terms of the content that's on the devices.

16 THE COURT: Well, if there's anything I can do to be  
17 helpful, please talk to Cristina.

18 MS. CORS: We will do so.

19 MR. MANGAN: I just wanted to bring it up. One, I  
20 wanted to understand how it was handled in the other case,  
21 because you've had some experience. And we'll try to talk  
22 about that amongst ourselves. I think at this point we don't  
23 know how big or small that issue is.

24 THE COURT: It causes me pause on the calendaring  
25 issue, but you're going to work on that.

1 Do you have anything else that you want to disclose or dump  
2 at this time, Mr. Mangan?

3 MR. MANGAN: I don't think so. As just a gentle  
4 heads-up --

5 THE COURT: Uh-huh.

6 MR. MANGAN: -- there will be at least one  
7 supplemental CIPA filing related to one document --

8 THE COURT: All right.

9 MR. MANGAN: -- that we hope to have to you shortly.  
10 I don't think it substantially changes the overall workload  
11 related to the initial filing. But I just wanted to give you a  
12 heads-up that that's coming. But otherwise --

13 Anything else?

14 MS. GLATFELTER: No.

15 MR. MANGAN: -- that's all, Your Honor.

16 (The Court and law clerk confer privately.)

17 THE COURT: Anything further that we ought to discuss  
18 from the defendant's perspective?

19 MS. CORS: Nothing, Your Honor. We appreciate your  
20 help today.

21 MR. MIEDEL: Thank you.

22 THE COURT: Indeed. Come back often.

23 THE LAW CLERK: Do we need another status conference  
24 date?

25 THE COURT: Yeah.

1 THE LAW CLERK: And an ends of justice finding.

2 THE COURT: Yes.

3 Number one, within a week you're going to e-mail to  
4 chambers a proposed calendar. We should have another status  
5 conference in due course. Do you want to pick that now?

6 Should we not have another status conference in due course?

7 MR. MANGAN: I think it would be good to have a date  
8 on the calendar, Your Honor. And then we would do the ends of  
9 justice.

10 THE COURT: How long, three months?

11 MR. MIEDEL: Do you want to check with Bob and Ralph  
12 and put that in the proposed letter, perhaps?

13 MS. CORS: On the proposed dates?

14 THE COURT: That's probably a good idea.

15 MS. CORS: Yeah, why don't --

16 THE COURT: So by the time you get us your proposed  
17 calendar within seven days, you'll also suggest a general time  
18 frame for another status conference --

19 MR. MIEDEL: Yeah.

20 THE COURT: -- after you've weighed in with the  
21 lawyers who weren't able to here today?

22 MS. CORS: That would be fine with us.

23 MR. MIEDEL: That would be great.

24 THE COURT: And we'll probably two or three months,  
25 something like that, and just get back on the calendar.

And the Court is going to continue to find that this is complex litigation and make an ends of justice finding that time -- that failing to grant a continuance to the date we're going to select down the road in two or three months would deprive counsel of adequate time to continue to review discovery, consider preparation of motions, and adequately prepare for trial. Failure to grant the continuance might well result in a miscarriage of justice. So we'll docket that as well.

Are we done, from the government's perspective?

MR. MANGAN: Yes, Your Honor. Thank you.

THE COURT: And you're going to chat with them today?

MR. MANGAN: Yes.

THE COURT: And are we done?

MR. MIEDEL: Yeah.

MS. CORS: Yes, Your Honor.

THE COURT: Very well. Thank you all for appearing.

MS. CORS: Thank you.

MR. MIEDEL: Thank you.

(Proceedings concluded at 1:33 PM.)

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C E R T I F I C A T E

I, Luke T. Lavin, RDR, CRR, the undersigned, certify  
that the foregoing is a correct transcript from the record of  
proceedings in the above-entitled matter.

s/Luke T. Lavin  
Luke T. Lavin